

# **EXHIBIT C**

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION  
CAUSE NO. 1:23-CV-00099-SEB-MG

JOHN THOMSON, )  
 )  
Plaintiff, )  
 )  
-vs- )  
 )  
ROCHE DIAGNOSTICS CORPORATION, )  
 )  
Defendant. )

The videoconference deposition upon oral examination of RON DINIZO, a witness produced and sworn before me, Dana S. Miller, RPR, CRR, a Notary Public in and for the County of Boone, State of Indiana, taken on behalf of the Plaintiff, appearing remotely from Indianapolis, Marion County, Indiana, on the 29th day of August, 2023, at 9:31 a.m., pursuant to the Federal Rules of Civil Procedure.

CIRCLE CITY REPORTING  
135 North Pennsylvania  
Suite 1720  
Indianapolis, IN 46204  
(317) 635-7857

1 A Yeah, we had restructured at the time. And we  
2 formed an operating model that was referred to as  
3 One Roche. And so, I became the area leader for  
4 the Midwest, which encompassed our entire  
5 portfolio, our book of business, which was  
6 essentially the four main franchises that I had  
7 responsibilities for from 2017 until 2019, late  
8 2018 or -- yeah, 2016 -- it was two years,  
9 essentially, I was in that role.

10 Q Okay. And then how did your role change in late  
11 2018 or 2019?

12 A Yeah, I was offered the position that I'm in today,  
13 which is Vice President of Corporate Accounts, in  
14 mid- to late 2018. And I accepted that role, and  
15 that's the role I'm in right now. It's my current  
16 role.

17 Q Okay. And then could you, again, just give us a  
18 brief overview of what you do in the VP of  
19 Corporate Accounts position.

20 A Sure. I have overall responsibility for our top  
21 key accounts across the country. We have a team of  
22 approximately 55 individuals right now. I've got  
23 eight leaders and administrator that are on my  
24 leadership team.

25 We have overall responsibility for the

1 government segment and a national director that has  
2 responsibilities over the group purchasing  
3 organization segment and the CRO segment, the  
4 clinical research organization segment, as well as  
5 two operations individuals that report in to that  
6 particular leader.

7 Q Okay. And then are you familiar with John Thomson?

8 A Yes.

9 Q And you formerly worked with John when he was a  
10 Corporate Accounts Director; right?

11 A Yes.

12 Q And you were not his direct supervisor, but one  
13 level above his direct supervisor; is that right?

14 A That's correct.

15 Q And so, did you work with John the whole -- until  
16 his retirement, the whole time that you're in your  
17 current position?

18 A Yes.

19 Q And, now, did John's direct supervisor change  
20 throughout that time?

21 A No.

22 Q And who was his direct supervisor throughout that  
23 time?

24 A Jason Fowler. Jason was promoted into a new role  
25 right around the time that John was retiring. I'm

1 not sure exactly what that timing was. I don't  
2 recall if it was right before he retired or right  
3 after, but somewhere around this same time.

4 Q And how would you describe your professional  
5 relationship with John?

6 A Can you clarify the question or what you're --

7 Q Sure, yeah. Would you say you had a good working  
8 relationship with John Thomson?

9 A Yes.

10 Q About how often did you interact or meet with John?

11 A In person or virtually or just in general?

12 Q Both.

13 A In general, I would say quarterly I would have some  
14 type of interaction. I mean, John was -- would  
15 join our -- we have monthly calls with the entire  
16 team that he would join.

17 So, I mean, I would see him on those calls and  
18 engage there. Would certainly interact with John  
19 when he was in the office. And then would interact  
20 on a situation-by-situation basis depending upon  
21 what John may have been working on with his  
22 particular account. But I would say on average  
23 that would -- you know, aside from those monthly  
24 meetings where I had my entire team part of, I  
25 would on average probably say it was probably on a

1       quarterly basis.

2       Q   And were you ever involved in reviewing John  
3       Thomson's performance?

4       A   Yes.

5       Q   How were you involved in that?

6       A   Annually we -- my leaders go through a rating of  
7       their individual teams, and we -- those ratings get  
8       rolled up to myself and reviewed with myself before  
9       we lock them into our HR system. So those would be  
10      the general touch points.

11               Also, on an annual basis we have a succession  
12      planning process that we go through where we, you  
13      know, look for individuals that are -- you know,  
14      that are interested in moving into new roles that  
15      have potential additional growth and development in  
16      the organization, have the will, the skill and the  
17      mind-set that want to do more within our -- within  
18      the Roche organization.

19               So there's also a succession planning process  
20      that my leadership team and I go through that's  
21      usually on an annual basis as well.

22      Q   And so, did you go through that succession planning  
23      process for John Thomson specifically?

24      A   I don't recall. Those -- I don't believe John was  
25      an individual that was interested in moving into

1 the GenMark part of our business.

2 We have another KSO around LIAT, which is a  
3 point-of-care device that we sell. And we want to  
4 expand the presence and the footprint of that  
5 solution out into the marketplace with our  
6 customers who we have a key selling objective  
7 specific to LIAT. So those are what we refer to as  
8 key selling objectives.

9 Q And are the KSOs all the same? For example, would  
10 John Thomson and all of his peers on the GPO team  
11 have the same KSOs?

12 A They should be very, very similar, yes.

13 Q And so, are the KSOs completely unrelated to sales  
14 numbers?

15 A No, I would not say that, in the sense that the  
16 KSOs are designed to drive our sales numbers and to  
17 drive sales. So in that sense, they're related.

18 There's not an actual -- yeah, no, that's how  
19 I would probably describe it. They are -- they're  
20 related.

21 Q Okay. And so, if somebody had lower revenue  
22 numbers, would that affect their KSOs?

23 A Lower revenue numbers? It could, but it would  
24 depend upon the situation.

25 Q So can you give me an example of a situation where

1 for the year. And then since we cover the entire  
2 enterprise, what we will look at then at a  
3 Corporate Counsel Leadership team, we'll look at  
4 each of the individual franchises to determine what  
5 one or two areas might we focus on for each of the  
6 franchises. And from that we try to come up with  
7 three or four, no more than five KSOs for our  
8 teams.

9 Q So during the year, when does this process of  
10 coming up with the three to five KSOs for each team  
11 happen?

12 A It happens at the beginning of the year. And,  
13 actually, we start working on them in the fourth  
14 quarter of the prior year. Once the business plans  
15 are finalized and the priorities are set by the  
16 franchises, we'll then finalize the key selling  
17 objectives usually early in the year, so somewhere  
18 in that.

19 If they're not finalized before the year  
20 starts, shortly after the franchise teams align on  
21 their priorities, we'll try to have all that  
22 finalized within the first quarter of the year, and  
23 the earlier the better. So we try to get them out  
24 by January or February.

25 Q And so, when you say you try to get them out, are



1       you trying to get them communicated to the  
2       employees who they apply to?

3       A   Yeah, it's part of the incentive comp plan.   So  
4       there's certain state regulations that we have to  
5       have them rolled out to, and I believe California  
6       is the main one, that by the end of January we have  
7       to have the individuals that work in California or  
8       that cover California accounts, the incentive comp  
9       plans rolled out.

10               So as part of rolling out those incentive comp  
11       plans, the -- you know, the KSO is a component of  
12       that.   So we try to have all that wrapped up by  
13       then or at least in place.   There might be, you  
14       know, a KSO here or there that -- you know, that's  
15       not fully defined, but that's usually done  
16       within -- it should be done by the time we roll out  
17       the incentive comp plan.

18       Q   And so, the KS -- the specific KSOs are not  
19       actually defined in the incentive comp plan; right?

20       A   That is correct.

21       Q   And so, is there a different document where these  
22       specific KSOs are actually defined?

23       A   Yeah, those -- yes.   So we have a KSO -- I don't  
24       know if I'd call it a document, but, you know, we  
25       have our -- yeah, we have a KSO template, if you

1 will, that we'll roll out separately from the  
2 incentive comp plan that have the details. And  
3 each of the teams will roll those out to their  
4 individual teams.

5 I think I mentioned this, but the KSOs can be,  
6 and usually are, slightly different between the  
7 individual teams.

8 Q Okay. So the managers of each of the individual  
9 teams would have some input into what the KSOs are  
10 for their team?

11 A Yes, yeah, along with input from the franchise  
12 priorities as well.

13 Q Okay. But they all generally follow this template  
14 that you mentioned?

15 A Yes, yes.

16 Q And so, is it the case, then, that, you know, the  
17 template goes to the manager of the individual  
18 teams who kind of finalized the specifics for their  
19 team, and then that goes back up to your level for  
20 approval?

21 A Can you repeat that?

22 Q Sure. So you mentioned that the individual  
23 managers of the teams would have some input into  
24 the KSOs.

25 Once the managers of the individual teams

1 A Uh-huh.

2 Q And so, how were those percentages assigned to each  
3 individual team member?

4 A Yeah, we pay out KSOs twice a year, midyear and at  
5 end of year. Each of the managers go through a  
6 rating of assigning the percentages to their  
7 individuals on their teams.

8 They roll that up to myself. I review that  
9 before submitting it to our Compensation team for  
10 processing and payout. And then prior to us --  
11 once the Compensation team has processed all of the  
12 individuals on the Corporate Accounts team and all  
13 my leaders' teams, we take a -- we use an average  
14 of their team scores for the leaders, actual  
15 scores, and then we also have a sign-off process.

16 So I have a meeting with my finance partner  
17 and my HR partner, and we review the KSO ratings  
18 and scores of the entire Corporate Accounts team  
19 before the three of us actually sign off on them.

20 Q And what are the names of those two individuals  
21 that you said you review those with?

22 A Nicole Shaw is my finance partner, and I'm having a  
23 blank right now on my HR partner. She's not going  
24 to like that. Stacey Fout, there. Stacey Fout is  
25 my HR partner. Oh, my gosh, I just had a quick

1 conversation with the manager about any particular  
2 individual unless there's some sort of question  
3 about an outlier or something like that?

4 A No, I will have a conversation or two with my  
5 leaders as they roll theirs up. Generally they  
6 like to at least socialize their ratings with me  
7 before we get to that sign-off meeting.

8 So, yeah, there's generally a conversation  
9 that has occurred with each of my leaders.

10 Q So is it pretty common for employees to be rated at  
11 exactly 100.0 percent?

12 A It is common that from a KSO perspective we try  
13 to -- we generally have members that are at --  
14 usually right at plan or slightly above plan or in  
15 some cases slightly below the plan. But, in  
16 general, we try to -- because our positions are  
17 more long-term and they're more strategic in  
18 nature, and they're not like our franchise -- other  
19 franchise sales positions that get immediate  
20 payouts from signing contracts and signing deals,  
21 our positions are more longer term that we take  
22 with our accounts and more strategic in nature.

23 And so, the KSO is one where we -- you know,  
24 we tend to try to compensate people as much as  
25 possible and try to get them at their target payout

1 for the KSO payout component. And then --

2 Q Was there ever --

3 A And then our top performers, the performers that  
4 have done really exceptional or have accomplished  
5 some really significant objectives, then we will  
6 reward them as such as well.

7 Q And how are they rewarded?

8 A Through a higher KSO score.

9 Q Was there ever a time you reviewed the KSO  
10 percentages that Jason Fowler assigned and you  
11 ended up making changes to those percentages?

12 A There were times where I have questioned his rating  
13 in his score, yes -- or his roll-up of his team  
14 scores where I felt a couple of individuals on the  
15 team were -- I know specifically we had  
16 conversations around two individuals on his team.

17 Q Who were those individuals?

18 A Catherine Boik and Rick Feid.

19 Q And what were those conversations about?

20 A Catherine's was around a significant achievement  
21 around securing a contract position for Roche for  
22 the first time ever in our Core Lab franchise,  
23 which opened up access for us to go into over 1,200  
24 hospitals across the country, which we had never  
25 had access to.

1           So it opened up 20 percent of the market for  
2           us, which were a direct contribution -- you know, a  
3           direct result of her efforts over several years to  
4           get us to that point. And I felt like, and as did  
5           Jason, that she needed to be recognized as such for  
6           a much, much higher KSO score for that particular  
7           year.

8           For Rick Feid, we had -- Rick was covering  
9           multiple accounts at the time. So we had a  
10          promotion of an individual who was on our Premier  
11          team moved into a different role in the  
12          organization. So we asked Rick to step in to not  
13          only cover his accounts and his responsibility, but  
14          also to pick up another individual's workload. And  
15          felt like his -- you know, his effort there should  
16          also be recognized.

17       Q   And so, how were the actual percentages determined?  
18            I mean, is it kind of an arbitrary assignment, or  
19            is there anything measurable that you can add up  
20            and get to the percentage numbers?

21       A   In general, the KSO scores are subjective in  
22            nature. So it depends -- again, depending upon --  
23            there are a couple that are more quantifiable in  
24            nature, but in general they are subjective.

25            So when they -- when we do roll them up, it's

1 other means in the organization for other, you  
2 know, policy questions and concerns.

3 There's our HR which is now called Our People  
4 In Culture, but HR is certainly a route to the  
5 voice -- you know, voice any concerns. But  
6 generally I would expect the team would -- or an  
7 individual would at least have a conversation with  
8 their direct manager. Their manager would come to  
9 me or within Corporate Accounts.

10 It's not out of the question for individuals  
11 to come directly to myself to, you know, have  
12 conversations or to voice a concern.

13 Q And so, that has happened before where an  
14 individual has come to you to voice a concern about  
15 their KSO numbers?

16 A It may have. I don't recall right off the top of  
17 my head. It's not a -- they're not -- it's not  
18 like I have people coming to me every day or  
19 multiple times a year.

20 But over the last five years if somebody's --  
21 you know, may have approached me across our team  
22 with a question or two relative to our compensation  
23 plan, then a question could have been specific to  
24 the KSO component.

25 Q And do you remember any instances where a manager

1 talking to Jason around, you know, why John was  
2 scored where he was. And from what I recall, I was  
3 completely aligned with John's scoring of his KSOs  
4 at the time we signed off on them and even during  
5 this follow-up conversation that occurred at a  
6 later time with Jason.

7 Q Did you review John's KSOs from that year or  
8 previous years?

9 A I believe I had seen a summary, a roll-up of his  
10 KSO scores over time, yes. Looking at them over  
11 time, yes, I did.

12 Q And did you do anything to look back at whether  
13 those scores were appropriate?

14 A Yeah, we looked back at his performance during that  
15 time. And I had concluded at the time that the  
16 ratings and the scoring was more than adequate for  
17 John's performance. If anything, I felt like it  
18 was probably higher than what maybe he probably  
19 should have been rated.

20 Q Why did you feel it was higher than what he should  
21 have been rated?

22 A Based upon feedback that I'd received throughout  
23 the time in my role, around feedback specifically  
24 from the Franchise teams, around -- there's  
25 individuals who didn't even know who was actually



1 covering the Vizient account for us, leaders, peers  
2 of John's, as well as some of the senior-level  
3 franchise sales leaders. As well with the  
4 directors and VPs providing feedback around John's  
5 lack of engagement and his collaborating and how  
6 he -- you know, how he worked or, you know, wasn't  
7 collaborating and aligning as well as maybe others  
8 on our team were doing at the time.

9 Q So why did you approve a KSO score or scores for  
10 John Thomson that you felt might have been too  
11 high?

12 A It's a good question. I think, you know, in the  
13 sense of, you know, it's a decent part of  
14 compensation. And, you know, I know that -- you  
15 know, I was looking at John's total body of work  
16 and his total value to the organization and, you  
17 know, his -- you know, he's had some -- he had some  
18 very decent years for us in his tenure.

19 And not wanting to demotivate him and wanting  
20 to, you know, compensate him for some of those  
21 long-standing relationships that he had maintained  
22 for us within the Vizient organization.

23 Q So then weren't you essentially compensating him  
24 based on something that wasn't an annual KSO?

25 A No, not necessarily. I mean, I think we rated him

1 A I've been involved with -- we have exceptions for  
2 our incentive comp, yes. And I have been involved  
3 in discussions relative to exceptions, many -- not  
4 many exceptions, but exceptions over my tenure and  
5 my roles within Roche.

6 Q Okay. And about how many do you think you've been  
7 involved in?

8 A Two or -- maybe two or three a year.

9 Q Okay. And so can -- are you able to recall, you  
10 know, just in general what type of exceptions those  
11 were?

12 A Sure, sure. And there's a process here by which,  
13 again, HR, the Compensation Team and Legal -- I'm  
14 sorry, not Legal, at one point we had -- I think we  
15 did have Legal part of that, but I believe it  
16 was -- I believe it's Finance, HR, myself and our  
17 Compensation team.

18 If there are exceptions that are submitted  
19 throughout the year, they occur at the end of each  
20 quarter, there's an opportunity for employees to  
21 submit an exception. Those exceptions then get  
22 rolled up to my -- to this team, and we have an  
23 exception meeting. And there will be decisions  
24 that were made, whether we grant the exception or  
25 don't grant the exception, based upon whether or

1 not this is something we've done in the past, and  
2 there's already precedent set.

3 We may grant an exception, or if an exception  
4 is presented and we have concern about setting  
5 precedent, and we don't want to particularly do  
6 this because it has broader implications or creates  
7 more risk, for whatever reasons, then we -- you  
8 know, we would deny an exception.

9 So I would say those are -- the number of  
10 exceptions, if you looked over time, I don't have  
11 it off the top of my head, but I think we've gotten  
12 to fewer and fewer exceptions over the years.

13 Q Okay.

14 A And I'm sure our Compensation team can walk you  
15 through more details for what those exceptions look  
16 like and how many there are, etc., etc. But I'm --  
17 the most recent was midyear this year, and our  
18 first quarter I don't believe we had any exceptions  
19 even submitted.

20 Q Okay. And so, in these exceptions that you've been  
21 involved in, are a lot of those, would you say,  
22 calculation errors, or is it something else?

23 A No, they're usually something else. They're  
24 usually related to we want to give somebody -- you  
25 know, somebody's asking for goal relief, or

1       somebody had a situation occur in their territory  
2       where their -- they were not getting the full  
3       revenue for a particular -- you know, that should  
4       have been included into their -- you know, into  
5       their calculations. We -- yeah, those are more the  
6       type that we typically would see.

7       Q   Okay. And then so, are they generally calculation  
8       questions, or do you ever get payout exceptions for  
9       something, you know, rather than being calculation  
10      related, it's more like I think my manager is  
11      rating me too low? No?

12     A   No, they're not related to I think my manager is  
13      rating me too low. They're related to this  
14      particular account was not factored in. It was not  
15      part of my territory, but it really is, that sort  
16      of thing. We -- yeah, yeah.

17     Q   Okay. So it's more of addressing questions about  
18      what goes into the calculation?

19     A   Or what goes out.

20     Q   Got it. Okay. And so, I do want to look quickly  
21      at what's been previously marked Exhibit 16. This  
22      is an Excel document.

23               And is this something that you've seen before?

24     A   Yes.

25     Q   Okay. And so, is this a summary of what was paid

1 exception process to pay Catherine what she was  
2 paid in 2021?

3 A I believe I shared that the cap was 125 percent,  
4 but that cap was increased to 150 percent. And so,  
5 during the review and sign-off of that year's KSO  
6 scores, yes, I had a conversation with our HR team.  
7 I had a conversation with the Incentive Comp team.  
8 And I had a conversation with our finance partner  
9 around her score and why it was justified.

10 Q Okay. And then she was paid out at the 150 percent  
11 that year; right?

12 A She was paid out -- I believe if you go back to the  
13 numbers, she was paid out the first half of that  
14 year at 150 percent. The second half of the year,  
15 I believe it was a lower payout, if I'm not  
16 mistaken.

17 Q So for the first half she was paid out the  
18 150 percent?

19 A Yes, that's what you just reviewed in that Excel  
20 spreadsheet.

21 Q So going back to John Thomson's specific  
22 contributions and re-signing the contracts over his  
23 last few years before his retirement, so if a  
24 person already has all the businesses that Roche  
25 wants under contract for a certain year, then is it

1 years where his KSO rating would warrant a rating  
2 above 100 percent?

3 A No.

4 Q From 2018 to 2022, was Mr. John Thomson performing  
5 in any of those years to warrant an accelerator in  
6 any of those years?

7 A No.

8 Q How would you describe Mr. John Thomson's work  
9 performance from 2018 to 2022, once you came into  
10 your position, I think, around the middle of 2018?

11 A John's performance, I think, was average, in my  
12 opinion, I think at best. There are many other  
13 individuals on our Corporate Accounts team that  
14 were performing and continuing to perform at a  
15 higher level than John. I think John's  
16 compensation was more than adequate for his results  
17 and for his body of work.

18 Q Due to his tenure and knowledge of the department,  
19 was there any doubt that he understood the  
20 accelerator and KSO programs from 2018 to 2022, in  
21 your mind?

22 A Not in my mind. He had been an employee for many,  
23 many years in our organization under the incentive  
24 comp plans year over year.

25 So, in my opinion, John was -- very well

3/9/22, 12:50 PM

Roche Mail - Re: KSOs

John Thomson &lt;john.thomson@roche.com&gt;

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**Re: KSOs**

1 message

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**John Thomson** <john.thomson@roche.com>  
To: "Fowler, Jason" <jason.fowler@roche.com>

Tue, Mar 8, 2022 at 3:15 PM

Thanks Jason. What I am looking for is how you determine what the payout will be for KSOs since I/we have not had KSOs for the last 4 years. Do you just give Ron the percentage payout without any KSO documentation?

**John Thomson**  
National Director, Corporate Accounts

Roche Diagnostics  
9115 Hague Rd  
Indianapolis, IN 46250

Phone: 770.490.9020

**EXHIBIT 20**

Witness: Jason Fowler

Date: 8/28/23

Dana Miller, RPR, CRR

Mail: [John.Thomson@Roche.com](mailto:John.Thomson@Roche.com)

[www.roche.com](http://www.roche.com)

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On Tue, Mar 8, 2022 at 2:45 PM Fowler, Jason <jason.fowler@roche.com> wrote:  
Hi John,

Working to track down prior years, but here are the details of your KSO components for 2021, and I am working to track down prior years:



CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER

3/9/22, 12:50 PM

Roche Mail - Re: KSOs

KSO	KSO Weight	Thomson
1) COVID Portfolio support & execution	20.0%	100.0%
2) Strategic engagement with GPO & Key Members	40.0%	100.0%
3) Engagement with local sales teams, utilization of Roche resources	40.0%	100.0%
<b>Total H1:21 (Paid in Q3 2021)</b>	<b>100.0%</b>	<b>100.0%</b>

  

KSO	KSO Weight	Thomson
1) COVID Portfolio support & execution	20.0%	100.0%
2) Strategic engagement with GPO & Key Members	40.0%	100.0%
3) Engagement with local sales teams, utilization of Roche resources	40.0%	100.0%
<b>Total H2:21 (Paid in Q1 2022)</b>	<b>100.0%</b>	<b>100.0%</b>

Jason

On Fri, Mar 4, 2022 at 11:47 AM Thomson, John <john.thomson@roche.com> wrote:

Hi Jason, For the last 4 years, how was my payout for KSOs determined? You have never shared with me how you calculated the payout. Do you have any documentation that you can share with me?

Thanks,

**John Thomson**

National Director, Corporate Accounts

Roche Diagnostics

9115 Hague Rd

Indianapolis, IN 46250

Phone: 770.490.9020

Mail: [John.Thomson@Roche.com](mailto:John.Thomson@Roche.com)

[www.roche.com](http://www.roche.com)

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--  
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